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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/827,665	04/06/2001	Timothy J. Messler	2258.001	6739

21917 7590 01/24/2005

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EXAMINER
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ABEL JALIL, NEVEEN

ART UNIT	PAPER NUMBER
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2165

DATE MAILED: 01/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<p align="center"><b>Office Action Summary</b></p>	Application No. 09/827,665	Applicant(s) MESSLER, TIMOTHY J.	
	Examiner Neveen Abel-Jalil	Art Unit 2165	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 October 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-11 and 14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-11 and 14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.



**SAM RIMELL  
PRIMARY EXAMINER**

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)<br>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)<br>3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date _____.<br>5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)<br>6) <input type="checkbox"/> Other: _____. |
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**DETAILED ACTION**

**Remarks**

1. Status of the claims: Claims 1, 3-11, and 14 are pending.

***Response to Amendment***

2. The Declaration filed on October 22, 2004 under 37 CFR 1.131 has been considered but is ineffective to overcome the Kroeger (U.S. Pub. No. 2002/0138391 A1) reference.

3. The evidence submitted is insufficient to establish a reduction to practice of the invention in this country or a NAFTA or WTO member country prior to the effective date of the Kroeger reference. In general, proof of actual reduction to practice requires a showing that the apparatus actually existed and worked for its intended purpose.

A general allegation that the invention was completed prior to the date of the reference is not sufficient. Ex parte Saunders, 1883 C.D. 23, 23 O.G. 1224 (Comm'r Pat. 1883). Similarly, a declaration by the inventor to the effect that his or her invention was conceived or reduced to practice prior to the reference date, without a statement of facts demonstrating the correctness of this conclusion, is insufficient to satisfy 37 CFR 1.131.

4. The affidavit or declaration and exhibits must clearly explain which facts or data applicant is relying on to show completion of his or her invention prior to the particular date.

The Applicant's declaration paragraph 8 cited "attached is a business plan for eEngineering Solutions which was compiled in November 2000 and represents actual reduction

to practice. The Business Plan describes the marketing plans for the Project, and it was presented to numerous potential investors in November 2000” states just precisely that, After careful review by the Examiner of the evidence attached in its entirety, they appear to be merely a business plan with breakdown of cash flow and mission statement. The Examiner found not support outlining or indicating the claimed technology. For example, Section 1.2 Mission (fourth bullet) states the objective of the company as a generic service description not clear it supports the claim disclosure (i.e. “providing a graphical user interface (GUI) allowing a user to: (i) perform a categorized database inquiry for an engineering project by using a cascading drop-down menu process”...etc.).

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1, 3-11, and 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Kroeger (U.S. Pub. No. 2002/0138391 A1):

As to claim 1, Kroeger a method of engineering project design using a real-time interface with a global computer network (See figure 1A, wherein “global computer network” reads on “Internet”), said method comprising:

creating a database based on publicly accessible data located in www sites for approved engineering specific Universal Record Locator (URL) links (See page 11, paragraphs 0132-0134, also see page 12, paragraph 0145);

indexing said database according to predetermined engineering search queries (See pages 10-11, paragraph 0118, also see page 1, paragraph 0004, prior art);

providing a graphical user interface (GUI) (See page 6, paragraphs 0087-0089) allowing a user to:

(i) perform a categorized database inquiry for an engineering project by using a cascading drop-down menu process (See page 5, paragraph 0069, and see page 6, paragraphs 0091-0093);

(ii) input critical parameters regarding the specification and requirements for the engineering project (See page 7, paragraph 0104); and

(iii) input a specific geographic location of the engineering project (See page 7, paragraph 0104); and

iv) compile project information into a job folder checklist (See page 8, paragraphs 0106-0109, also see page 12, paragraph 0148);

providing a design process template (See page 14, column 2, lines 43-67);

retrieving URL links according to the database inquiry (See page 10, paragraphs 0110-0115);

accessing www Web pages related to the retrieved URL links (See page 12, paragraphs 0145-0147);

retrieving regulatory data from a Web page review which conforms to the specific geographic location (See page 7, table 1A, shows “listings of template associated with invention”);

retrieving permit information from a Web page review which conforms to a specific geographic location (See page 7, table 1A, shows “listings of template associated with invention”, also see page 2, paragraph 0011, prior art);

inserting the regulatory data and permit information into the job folder checklist (See page 7, column 2, table 1A) performing iterative calculations based on specifications acquired from a Web, page review (See page 7, paragraph 0105, table 1A, shows “review” process, also see page 12, paragraphs 0142-0147);

formulating construction procedures and inserting the construction procedures into a project flow chart template (See page 5, paragraphs 0068-0070, and see page 14, column 1, lines 1-26); and

displaying pertinent information of the accessed Web pages and inserting the information into the job folder checklist (See figure 7, 700, shows “web page”, also see page 10, paragraph 0112).

As to claim 3, Kroeger discloses wherein the design process template prompts a user to input the critical parameters for a selected engineering project (See page 13, paragraphs 0151-0164).

As to claim 4, Kroeger discloses wherein the design process template includes formulas for a selected engineering project (See page 5, paragraph 0067).

As to claim 5, Kroeger discloses wherein the design process template includes a drop-down menu for a selected engineering project (See page 5, paragraph 0072, and see page 11, paragraph 0135).

As to claim 6, Kroeger discloses wherein said iterative calculations are repeated to arrive at an acceptable final design (See page 7, paragraph 0105, table 1A, shows final design and approval, also see page 2, paragraph 0004, prior art, also see page 13, paragraphs 0157-0168).

As to claim 7, Kroeger discloses wherein the iterative calculations are based on material specifications acquired from a Web page review (See page 7, column 1, paragraph 0104, table 1A, and see page 1, paragraph 0007, prior art).

As to claim 8, Kroeger discloses wherein the iterative calculations are based on component specifications acquired from a Web page review (See pages 10-11, paragraphs 0118-0121).

As to claim 9, Kroeger discloses wherein the iterative calculations are based on design tables acquired from a Web page review (See page 7, paragraph 0105, table 1A, shows “review” process, also see page 12, paragraphs 0142-0147).

As to claim 10, Kroeger discloses including the step of displaying and printing of a flow diagram detailing the engineering project (See pages 10-11, paragraph 0118, also see page 5, paragraph 0075).

As to claim 11, Kroeger discloses further including the step of displaying and printing of selected components selected during the Web page review (See page 11, paragraphs 0119-0130).

As to claim 14, Kroeger discloses further the step of printing a report on the engineering project based on information in the job folder checklist (See pages 10-11, paragraph 0118).

### ***Conclusion***

**7. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37



CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neveen Abel-Jalil whose telephone number is 571-272-4074. The examiner can normally be reached on 8:30AM-5:30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dov Popovici can be reached on 571-272-4038. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Neveen Abel-Jalil  
January 11, 2005



**SAM RIMELL**  
PRIMARY EXAMINER